

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ONOFRIO POSITANO,	:	CIVIL ACTION NO. 1:19-CV-1820
	:	
Plaintiff	:	(Chief Judge Conner)
	:	
v.	:	
	:	
OFFICE OF GOVERNOR, COMMONWEALTH OF PENNSYLVANIA, et al.,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 13th day of May, 2020, upon consideration of the report (Doc. 17) of Magistrate Judge Martin C. Carlson, issued following screening review of *pro se* plaintiff Onofrio Positano's amended complaint (Doc. 16), wherein Judge Carlson recommends that Positano's claims against defendant Commonwealth of Pennsylvania, Department of Corrections, Bureau of Health Care Services be dismissed pursuant to the Eleventh Amendment but that the balance of the amended complaint be permitted to proceed at this time, (see Doc. 17 at 8-12), and the court observing that Positano has not objected to the report, see FED. R. CIV. P. 72(b)(2), and has advised that he "accepts" the recommendation, (see Doc. 18 ¶ 1), and the court noting that failure of a party to timely object to a magistrate judge's conclusions "may result in forfeiture of *de novo* review at the district court level," Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007) (citing Henderson v. Carlson, 812 F.2d 874, 878-79 (3d Cir. 1987)), but that, as a matter of good practice, a district court should afford "reasoned consideration" to the uncontested portions of the report,

E.E.O.C. v. City of Long Branch, 866 F.3d 93, 100 (3d Cir. 2017) (quoting Henderson, 812 F.2d at 879), in order to “satisfy itself that there is no clear error on the face of the record,” FED. R. CIV. P. 72(b), advisory committee notes, and, following an independent review of the record, the court agreeing with Judge Carlson’s analysis and recommendation, and concluding that there is no clear error on the face of the record, it is hereby ORDERED that:

1. The report (Doc. 17) of Magistrate Judge Carlson is ADOPTED.
2. Positano’s claims against defendant Commonwealth of Pennsylvania, Department of Corrections, Bureau of Health Care Services are DISMISSED with prejudice.
3. This matter shall be remanded to Judge Carlson for further proceedings.
4. Any appeal from this order is deemed to be frivolous and not taken in good faith. See 28 U.S.C. § 1915(a)(3).

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania